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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/886,297 | 06/20/2001 | Everett Lee Mitchell | 3374-4-1-1 | 8096 |
| 22442 | 7590 | 12/06/2005 | EXAMINER | |
| SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202 | | | A, PHI DIEU TRAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3637 | |

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/886,297

Applicant(s)

MITCHELL, EVERETT LEE

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-89 and 104-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-89 and 104-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 56 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The invention allows for the holes being located interiorly of the break, not wise versa.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 60, 72, 83, 104, 108, 112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“common side “ and “common axis” is confusing as it is unclear what “common “means.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 56-60, 62-72, 74-83, 85-89, 104-120 are rejected under 35 U.S.C. 102(b) as being anticipated by Kajiura (5046293).

Kajiura shows a wall system comprising at least a first perimeter framing member (5c, 70), at least a second perimeter framing member (4a, B), the first and second members engaging one another, at least one of the first and second perimeter framing members defining a recess extending inwardly relative to exterior surfaces of the first and second panels, at least one of the first and second perimeter framing members comprising a plurality of drainage holes (the holes formed by the screen 70), the plurality of holes being in fluid communication with a gutter (71) located in an interior region behind the first and second wall panels and the first and second perimeter framing members, the gutter collecting and providing to the drainage holes moisture located in the interior region for discharge into an environment located exteriorly of the framing members and the wall panels (inherently capable of doing so), a capillary break (formed by the bottom tip of the panel 5) positioned on at least one of the first and second perimeter framing members, the break is spaced from the drainage holes and located exteriorly of the drainage holes and along with the surfaces of the recess, defining a circulating chamber located interiorly of the capillary break, whereby entry of the terrestrial fluids into at least one of the drainage holes is impeded, a free end of the break is separated from one of the first and second framing members by a gap through which fluids pass to enter the circulating chamber, a lower surface of the circulating chamber is contoured to permit fluids collected in the chamber in the form of a liquid to flow as a liquid through the gap along the lower surface for discharge into the

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environment, the plurality of holes (of the net 70) are located above the free end of the break, the break extends downwardly from the at least one of the first and second framing members, the recess having a downwardly sloped lower surface (4a) to permit fluids in the chamber to flow along the lower surface and into the exterior environment, an adjacent edge of a nearest drainage hole is at least about 0.75 inch from the rear surface of the capillary break (inherently so), a first space (the space between the break and the bottom of part 4a) between a free end of the break and an opposing wall of the recess having a first vertical cross sectional area and a second space between opposing walls of the recess at a point between the break and the plurality of the drainage holes having a second vertical cross-sectional area and the second vertical cross sectional area being at least about 150% of the first vertical cross section area (the second space is between the break and the far end of part 70), at any location along the break, an adjacent edge of a nearest drainage hole is at least about 0.25 inches from a rear surface of the break, the centers of the drainage holes lie along a common axis and wherein a distance of the drainage holes above a free end of the break being at least about 125% of a distance from the free end of the break to an adjacent opposing surface of the recess, a surface of the break adjacent to the plurality of drainage holes is concave (figure 2, the concave part of the break on top of the opening 7), the plurality of drainage holes are spaced at regular intervals along the at least one of the first and second framing members, a height of the break ranges from about 125% to about 200% of a distance between a free end of the break and an adjacent opposing surface of the chamber, the openings of the holes are located on an at least substantially horizontal surface (slanted surface being substantially horizontal), the openings of the holes are located on an at least substantially vertical surface (slanted surface being substantially vertical), the holes located

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on the first perimeter member and the break located on the second member (4b), the openings of the holes being located above a free end of the break, the break is located exteriorly of the plurality of holes, the exterior surface of the panels are at least substantially parallel and coplanar, the drainage holes and circulating chamber are interiorly of the break, the exterior surfaces of the wall panels being substantially parallel and coplanar, the lower surface of the chamber is free of drainage holes, at least most of the fluids do not pass through a gutter during the passing step (inherently so), the break is positioned between an opening of the recess on the one hand and the drainage holes and circulating chamber on the other hand.

Per claims 63, 75, 118, Kajiura shows a capillary break (the top of part 4, figure 2), the plurality of drainage holes being located on one of the first and second perimeter framing members and the break being located on the other one of the first and second members, the break having a height and is separated by a gap from the framing member (the gap being substantially zero), the height is at least about 100% the width of the gap.

Kajiura also shows a free end of the break (the bottom tip of part 5b) being located above the gap and the holes being located above the free end of the break.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 61, 73, 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kajiura (5046293).

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Kajiura shows all the claimed limitations except for the panels being made of a composite of metal and plastic.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kajiura's structure to show the panels being made of a composite of metal and plastic because having panels made of a mixture of plastic and metal would enable the formation of strong, and light weight panels.

Response to Arguments

5. Applicant's arguments with respect to claims 56-89, 104-120 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

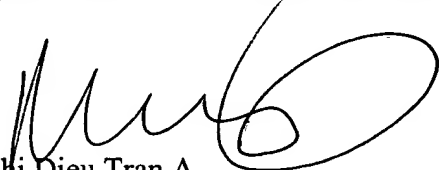
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different curtain wall designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

12/2/05